

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of SOUTHERN CALIFORNIA GAS COMPANY in Compliance with Resolution G-3334 For a System of Firm, Tradable Receipt Point Capacity Rights and Related Provisions. (U 904 G)

Application 03-06-040  
(Filed June 30, 2003)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER**

**Summary**

Pursuant to Rules 6(a)(3) and 6.3 of the Rules of Practice and Procedure,<sup>1</sup> this ruling designates the principal hearing officer, addresses the scope of the proceeding and establishes a procedural schedule.

**Procedural History**

Southern California Gas Company (SoCalGas) filed this application on June 30, 2003. On August 6, 2003, protests were filed by Wild Goose Storage Inc., Coral Energy Resources L.P., California Utility Buyers JPA, The Utility Reform Network, Watson Cogeneration Company, Indicated Producers, Department of General Services, Southern California Generation Coalition (SCGC), Southern California Edison Company (Edison), and Marathon Oil Company. Prehearing

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<sup>1</sup> Unless otherwise indicated, all citations to sections refer to the Public Utilities Code and citations to rules refer to the Commission's Rules of Practice and Procedure (Rules), which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

conference (PHC) statements were filed by Kern River Transmission Company, Questar Southern Trails Pipeline, Pacific Gas and Electric Company (PG&E), and SCGC. SoCalGas filed a response to the protests on August 18, 2003. Two PHCs were held in this matter on August 8 and 19, 2003.

On August 22, 2003, Joint Parties (Office of Ratepayer Advocates, California Cogeneration Council, Indicated Producers, California Manufacturers & Technology Association, Watson Cogeneration Company, California Utility Buyers JPA, Calpine Corporation, Coral Energy Resources LP, Edison, PG&E Gas Transmission Northwest and North Baja Pipeline) filed a joint motion to strike substantial portions of the testimony for SoCalGas' "preferred case" on the grounds that it:

- Modifies central elements of the Comprehensive Settlement Agreement (CSA) as approved in Decision (D.) 01-12-018;
- Improperly deletes agreed upon core aggregation unbundling provisions; and
- Improperly modifies or deletes myriad agreed upon features of the CSA.

In addition, Dynegy filed a short response in support of the motion to strike. In addition, Transwestern Pipeline Company also filed a separate motion to strike on grounds similar to Joint Parties. On September 8, 2003, SoCalGas filed a response to the motions to strike.

### **Background**

In investigation (I.) 99-07-003, the Commission investigated options for changes to the regulatory and market structure of the natural gas industry. In April 2000, parties signed a CSA, which resolved many of the issues raised in the I.99-07-003. In December 2001, in D.01-12-018, the Commission adopted the CSA with some modifications.

Consequently, SoCalGas filed advice letters (ALs) (in January through July 2002) to implement D.01-12-018. The ALs were protested by both signatories and non-signatories to the CSA.

In February 2003, the Commission issued Resolution G-3334, which denied SoCalGas' ALs without prejudice and directed SoCalGas to file an application to implement D.01-12-018.

In June 2003, SoCalGas filed Application (A.) 03-06-040 which contains two major options: (1) the "Compliance Case" which implements the CSA as adopted in D.01-12-018; and (2) the "Preferred Case" which makes substantial changes to D.01-12-018.

The assigned administrative law judge (ALJ) directed parties to hold two meet-and-confer sessions. At the first meet-and-confer, the parties identified issues that remained unresolved with respect to SoCalGas' compliance case proposal for implementing D.01-12-018; and at the second meet-and-confer, parties identified changes in the Southern California gas market impacting provisions of D.01-12-018.

### **Scope of Proceeding**

I have reviewed the record including the two proposals ("compliance case" and "preferred case") of SoCalGas, protests to the application, motions to strike testimony of SoCalGas, SoCalGas' responses to the protests and motions to strike, and the two reports from the meet-and-confers. My main concern is that D.01-12-018, a decision duly adopted by a majority of this Commission, and one of the more important decisions I have cast a vote in support of, remains unimplemented.

Although Resolution G-3334 permitted SoCalGas an opportunity to describe issues resulting from delay in implementing D.01-12-018, SoCalGas' preferred case and concerns identified by parties in the second meet-and-confer

report would require a substantial re-examination of the policies and programs adopted in D.01-12-018. Moreover, such an examination in my experience would take substantial time and further delay implementation of D.01-12-018.

Consequently, I believe it is in the public interest to focus this proceeding on SoCalGas' compliance case. Simultaneously, I plan to explore with Commission staff the possibility of initiating a new proceeding to evaluate parties' proposals for modification to the CSA in a comprehensive manner that identifies for parties the Commission's policy goals, organizes issues, and also takes into consideration the experiences gleaned from implementation of the compliance case. While this exploration will occur outside any formal proceeding, I view it as an important prelude to the preliminary scoping of this future Commission proceeding. Obviously, whatever informal processes are used in this exploration (whether they be workshops, or written or oral presentations to the Commission) will involve all interested stakeholders.

Further, by focusing on SoCalGas' compliance case, it is possible to issue a decision around year-end and thus facilitate implementation of provisions of D.01-12-018 concerning storage which should take effect prior to commencement on April 1, 2004 of SoCalGas' annual storage-injection season.

The issues to be considered in this proceeding are limited to the adoption of tariffs, as proposed in the compliance case of SoCalGas, for implementing D.01-12-018. In the near term, the issues raised in the preferred case of SoCalGas and by other parties at the second meet-and-confer will be considered as part of the informal efforts described above. Intervenor testimony should be limited to responding to SoCalGas' compliance case. Intervenors should also include in their testimony alternate proposed tariff sheets when disputing the tariff sheets proposed by SoCalGas.

## **Schedule**

The schedule for the proceeding is as follows:

October 15, 2003	Intervenor testimony served
October 23, 2003	Rebuttal to intervenor testimony served
November 3, 2003	Evidentiary hearing begins
November 7, 2003	Evidentiary hearing ends
November 17, 2003	Opening briefs filed
November 24, 2003	Reply briefs filed; proceeding submitted
December 15, 2003	Proposed Decision filed
	Comments on Proposed Decision (20 days after Proposed Decision filed)
	Reply Comments on Proposed Decision (five days following Comments)
January 2004	Commission meeting to consider Proposed Decision

## **Categorization and Designation of Principal Hearing Officer**

I affirm the preliminary categorization of ratesetting, requiring hearings as determined in Resolution ALJ 176-3110. In accordance with Rules 5(k) and (l), ALJ Joseph DeUlloa is designated as the principal hearing officer for this proceeding. The *ex parte* rules as set forth in Rule 7(c) and Pub. Util. Code § 1701.3(c) are applicable.

## **Final Oral Argument Before the Commission**

Any party wishing to exercise the right under Rule 8(d) to make a final oral argument before the Commission must file a written request and serve it on all parties and the Assigned Commissioner and assigned ALJ not later than the proceeding submission date.

**IT IS RULED** that:

1. The issues to be considered are those described in this ruling.
2. The timetable for the proceeding is as set forth herein.
3. This is a ratesetting proceeding.
4. A hearing is needed.
5. The principal hearing officer in this proceeding pursuant to Rules 5(k) and (l) of the Commission's Rules of Practice and Procedure (Rules) is Administrative Law Judge Joseph DeUlloa.
6. Ex parte communications are subject to Pub. Util. Code § 1701.3(c) and Rules 7(a)(1) and (c).
7. An evidentiary hearing will be held beginning on Monday, November 3, 2003, at 10 a.m. in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

Dated September 29, 2003, at San Francisco, California.

/s/ GEOFFREY F. BROWN

Geoffrey F. Brown  
Assigned Commissioner

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated September 29, 2003, at San Francisco, California.

/s/ KE HUANG

Ke Huang

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.